IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

COCP No. 666 of 2004
Date of decision: September 15, 2006.

M/s Cannon Steels Pvt. Ltd.

...**Petitioner(s)**

v.

V.S. Murthy & Anr.

...**Respondent(s)**

Present: Shri Vikram Chaudhri, Advocate for the petitioner.

Shri Gurpreet Singh, Advocate for the respondents.

Surya Kant, J. (Oral)

The petitioner filed CWP No.17135 of 2001 to issue a direction to the respondents for the refund to which the petitioner was entitled to in terms of order dated 24.5.1999 passed by the CEGAT. The above said writ petition was disposed of by this Court on 15.5.2003 by directing the respondents "to issue the refund to the petitioner arising out of the order of the Tribunal dated 24.5.1999 within two months" from the date of production of the certified copy of the said order. The Division Bench further directed that "in case the petitioner is also entitled to interest on account of delay under the provisions of law, the same shall also be allowed and included in the refund".

Alleging that though the principal amount was returned to it, however, the interest to which the petitioner is entitled under section 27-A of the Customs Act, 1962 was not correctly calculated and paid to it, this contempt petition has been filed.

In response to the show cause notice, the first respondent has filed an affidavit in which their action of calculating the interest from the date of receipt of order of the CEGAT, i.e. 17.9.1999, is sought to be justified. However, it is contended on behalf of the petitioner that in view of proviso to Section 27-A of the Act, the petitioner is entitled to be paid interest immediate on expiry of three months from the date when assent to the Financial Bill, 1995 was accorded by his Excellency, the President of India. The petitioner, thus, contends that the interest is liable to paid to it with effect from 28.8.1995.

Both the parties have placed reliance upon certain judgments in support of their respective contentions.

In order to determine as to whether there is willful and deliberate disobedience to the directions contained in the order dated 15.5.2003 passed by this Court, the import and spirit of the said order has to be kept in view. On a plain reading of the operative part of the said order, it appears to me that the petitioner's right to claim interest, on what rate and from which date, was not specifically adjudicated by this Court vide the said order.

Consequently, even if the petitioner's contention, sought to be raised in this petition, is assumed to be correct in law, yet it is difficult to hold that the respondents have willfully or deliberately disobeyed the order dated 15.5.2003 passed by this Court. Accordingly, this petition is disposed of with liberty to the petitioner to raise their claim in respect of the arrears of interest before an appropriate forum, if so advised.

Rule discharged.

September 15, 2006. **[Surya Kant]**
kadyan **Judge**